

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ERIC TOBIAS WOODS,

Petitioner,

v.

CASE NO. 06-CV-13741
HONORABLE GEORGE CARAM STEEH

JEFFREY WOODS, Warden,

Respondent.

_____ /

ORDER DENYING PETITIONER'S MOTION FOR RELIEF
FROM JUDGMENT UNDER FED. R. CIV. P. 60(b)(4) (DOC. #25)

Pro se petitioner Eric Tobias Woods, a Michigan prisoner currently incarcerated at the Chippewa Correctional Facility in Kincheloe, Michigan,¹ seeks relief from the denial of his 28 U.S.C. § 2254 petition for writ of habeas corpus under Rule 60(b)(4) of the Federal Rules of Civil Procedure. Petitioner contends that the judgment under which he is currently being incarcerated is void because, at the time of his arraignment for first-degree premeditated murder and related firearms violations in state court in August 2002, the magistrate judge violated his Sixth Amendment right to counsel. Petitioner's motion will be denied as untimely.

I.

Petitioner was convicted in Wayne County Circuit Court of (1) first-degree premeditated murder, in violation of Mich. Comp. Laws § 750.316; (2) felon-in-possession

¹ Throughout these proceedings, petitioner has been incarcerated in Bellamy Creek Correctional Facility in Ionia, Michigan and the Standish Maximum Correctional Facility in Standish, Michigan.

of a firearm, in violation of Mich. Comp. Laws § 750.224f; and (3) felony firearm in violation of Mich. Comp. Laws § 750.227b. Petitioner exhausted his appeals in state court, subsequently filing a habeas petition in this court under 28 U.S.C. § 2254. Through counsel, petitioner raised over a dozen issues in the habeas petition.

On March 24, 2009, the court denied the habeas petition in its entirety. (Doc. #23). Accordingly, judgment was entered dismissing the petition without prejudice. (Doc. #24). Plaintiff did not appeal the court's decision.

Almost six years later, petitioner has filed a motion for relief from judgment under Rule 60(b)(4) of the Federal Rules of Civil Procedure. (Doc. #25). He argues that the state court lacked jurisdiction to enter judgment against him because his Sixth Amendment right to counsel was violated. Therefore, he contends that the court's March 24, 2009 judgment in this case is void.

II.

A Rule 60(b)(4) motion seeks relief from a judgment on the grounds that “the judgment is void.” A motion to vacate a judgment under Rule 60(b)(4) must be brought “within a reasonable time.” Fed. R. Civ. P. 60(c)(1). Multiple factors are considered in determining what constitutes a “reasonable time.” Essentially, courts undertake a fact-specific inquiry on a case-by-case basis. *Bridgeport Music, Inc. v. Smith*, 714 F.3d 932, 942 (6th Cir. 2013). Factors considered include “the length and circumstances of the delay, the prejudice to the opposing party by reason of the delay, and the circumstances compelling equitable relief.” *Id.* at 942–43 (citation and internal quotation marks omitted).

Petitioner's motion is time-barred. Applying the above factors, petitioner's delay in filing his Rule 60(b)(4) motion is not reasonable. Petitioner waited approximately six years

after judgment was entered before he filed the instant motion. But the factual predicate giving rise to the petitioner's claim that his Sixth Amendment right to counsel was violated existed as early as August 2002 when his right to counsel was allegedly denied. The facts giving rise to this claim certainly existed at the time the habeas petition was filed in this court, and at the time the court entered judgment in 2009. Under these facts, the length and circumstances of petitioner's delay in filing the Rule 60(b) motion is impermissible. Given that petitioner's argument has been available since August 2002, and the length of time that has passed since the court entered judgment in this case, the circumstances do not compel equitable relief.

For these reasons, petitioner's motion for relief from judgment under Rule 60(b)(4) of the Federal Rules of Civil Procedure is DENIED.

IT IS SO ORDERED.

Dated: March 30, 2015

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on March 30, 2015, by electronic and/or ordinary mail and also on Eric Woods #342158, Chippewa Correctional Facility, 4269 West M-80, Kincheloe, MI 49874.

s/Barbara Radke
Deputy Clerk